

REMARKS

A. Background

Claims 39-57 were pending in the application at the time of the Office Action. Claims 39, 40, 43, 44, 46, 47, 50, and 52-55 were rejected as being anticipated by cited art. Claims 41, 42, 45, 48, 49, 51, 56, and 57 were objected to as being dependent upon a rejected base claim. Applicant has herein amended claims 39-41, 43, 44, 47, 49 and 53, and added new claims 58-62. As such, claims 39-62 are presented for the Examiner's consideration in light of the following remarks.

B. Proposed Amendments

By this response Applicant has amended claims 39, 40, 43, 44, 47, and 53 and added new claims 58-62 to further clarify the invention. The amendments are supported at least by Figures 6, 16, and 23 and the corresponding discussion in the specification as originally filed. Applicant has amended claims 41 and 49 to be rewritten in independent form including all the limitations of the claim(s) from which claims 41 and 49 previously depended. In view of the foregoing, Applicant submits that the amendments to the claims do not introduce new matter and entry thereof is respectfully requested.

C. Rejection on the Merits

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as

complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP* § 2131.

1. Rejection based on Mullen

Page 2 of the Office Action rejects claim 53 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,673,817 to Mullen et al. (“*Mullen*”). Applicant respectfully traverses this rejection.

Mullen discloses a dispensing unit 11 having one or more cartridges 18, 19, or 20 inserted into openings within the front of a cabinet 13. See Figure 1. Each cartridge 18 has a door panel 23 on the front of the cartridge and a bag 21 disposed within the cartridge. See Figure 3. Bag 21 has a fitment 35 projecting therefrom, to which a dispensing valve 25 is attached to dispense the liquid from within bag 21. See Figure 4. A door slide member 39 is disposed on door panel 23 adjacent to a hole 37 extending therethrough. Door slide member 39 can slide to an open position to open hole 37 and allow the dispensing valve 25 to pass through door panel 23. Door slide member 39 can then slide to a closed position to hold dispensing valve 25 in door hole 37 by clamping over fitment 35. See Col. 3, lines 16-25.

As clearly depicted in Figure 4, hole 37 is formed entirely in door panel 23 such that the cartridge floor and a portion of door panel 23 are disposed below hole 37. That is, *Mullen* discloses that all of hole 37 is disposed in door panel 23, spaced apart from and above any cartridge floor. Furthermore, *Mullen* requires that hole 37 extend through door panel 23. As depicted in Figure 5, cartridge 18 has a bottom wall 40b with a spring 45 mounted thereon to lift and support a floating bottom panel 46 above bottom wall 40b so that “the bottom of the liquid and the bag remain above the dispensing hole 37 in door panel 23.” See Col 3, lines 41-46.

Thus, for bottom panel 46 to properly operate, dispensing hole 37 must extend through door panel 23 above bottom wall 43.

Accordingly, because hole 37 is disposed entirely in door panel 23 above bottom wall 40b, *Mullen* does not disclose or suggest a method which includes, among other things, “passing a section of the fluid line through a slot formed on the bin such that the second end of the fluid line is disposed outside of the chamber, ... the slot passing completely through a portion of the floor.” as recited in amended claim 53. Accordingly, Applicant respectfully requests that the anticipation rejection of claim 53 based on *Mullen* be withdrawn.

2. Rejection based on Capper

Page 3 of the Office Action rejects claims 39, 40, 43, 44, 46, 47, 50, and 52-55 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,908,864 to Capper et al. (“*Capper*”). Applicant respectfully traverses this rejection.

Capper discloses a container 20 used for bulk liquids such as milk. See Abstract. A flexible bag 33 for holding the liquid is inserted into container 20. See Figure 2. A “nipple or fitting” 34 is mounted and secured directly on bag 33 so as to form a fluid connection between bag 33 and fitting 34. Col. 3, line 10; see also Figure 7. As a result of the fixed coupling between bag 33 and fitting 34, as fitting 34 is moved, at least a portion of bag 33 must also be moved. A dispensing tube 35 “plugs into this nipple after the bag is filled with milk or other liquid.” Col. 3, lines 11-12. It is through dispensing tube 35 that the milk or other liquid is subsequently dispensed. No other method of fluid coupling dispensing tube 35 (or anything else) to bag 33 is disclosed in *Capper*.

Independent claim 39 is directed to a method that recites, among other things, “positioning a collapsible bag within a chamber of a bin. ... and mounting a select retention plate

to the bin after the bag is within the chamber ... the select retention plate being movable independent of the bag...” The Office Action has equated fitting 34 of *Capper* as corresponding to the “retention plate” recited in claim 39. See Office Action, page 3. However, as noted above, fitting 34 of *Capper* is directly coupled to bag 33, requiring at least a portion of bag 33 to necessarily move when fitting 34 is moved. As a result, Applicant submits that contrary to the assertion of the Office Action, fitting 34 of *Capper* cannot correspond to the “retention plate” of claim 39 because fitting 34 is not “movable independent of the bag,” as required by that claim. Applicant further submits that Applicant cannot find any other structure in *Capper* that could arguably meet all of the requirements of the recited retention plate.

Accordingly, because *Capper* does not disclose or suggest a method comprising, among other things, “mounting a select retention plate to the bin after the bag is within the chamber ... the select retention plate being movable independent of the bag...” as recited in claim 39, Applicant submits that claim 39 is not anticipated by *Capper*.

Independent claims 47 and 53 each similarly require a retention plate that is “movable independent of the bag.” Thus, for substantially similar reasons as given above with regard to claim 39, Applicant submits that claims 47 and 53 are also not anticipated by *Capper*. That is, *Capper* does not disclose or suggest a method comprising, among other things, “mounting a select retention plate to the bin, ... the select retention plate being movable independent of the bag...” as recited in amended claim 47, or “mounting a retention plate to the bin, ... the retention plate being movable independent of the bag...” as recited in amended claim 53.

Claims 40, 43, 44, 46, 50, 52, 54, and 55 variously depend from claims 39, 47, and 53 and thus incorporate the limitations thereof. As such, applicant submits that claims 40, 43, 44, 46, 50, 52, 54, and 55 are distinguished over the cited art for at least the same reasons as

discussed above with regard to claims 39, 47, and 53. Accordingly, Applicant respectfully requests that the anticipation rejection with regards to claims 39, 40, 43, 44, 46, 47, 50, and 52-55 be withdrawn.

Furthermore, Applicant submits that many if not all of the dependent claims depending from claims 39, 47, and 53 may also be independently distinguishable over the allegedly obvious combination. For example, claim 43 recites “passing a first end of a fluid line through the opening in the floor of the bin prior to or after mounting the select retention plate to the bin, the fluid line having a second end fluid coupled with the first port of the bag.” By virtue of its dependence from claim 39, claim 43 also requires that the first port project from the collapsible bag.

The Office Action has equated the dispensing tube 35 of *Capper* as corresponding to both the “port” and the “fluid line” recited in claim 43. See Office Action, page 3. However, as noted above, the fluid line of claim 43 is required to be coupled with the first port. Applicant notes that fitting 34 is the only element or structure disclosed in *Capper* that projects from bag 33. As such, Applicant submits that the only element of *Capper* that can arguably correspond to a port that projects from the bag is fitting 34. Furthermore, the only structure in *Capper* that could arguably correspond to the fluid line of claim 43 is dispensing tube 35. As a result, fitting 34 and dispensing tube 35 of *Capper* can only arguably correspond to the “first port” and “fluid line,” respectively, recited in claim 43.

By virtue of its dependence from claim 39, claim 43 further requires, among other things, a step of “mounting a select retention plate to the bin...” The recited “select retention plate” is a separate element from the “first port” recited earlier in claim 39. As noted above, the Office Action has equated element 34 as corresponding to the recited retention plate. However, as also

noted above, element 34 is the only structure in *Capper* that can arguably correspond to the first port recited in claim 43 and thus cannot also correspond to the recited retention plate.

As noted above, a claim is anticipated “only if each and every element as set forth in the claim is found ... in a single prior art reference.” As discussed above, fitting 34 of *Capper* cannot correspond to both the first port and the separate retention plate recited in claim 39. As such, the Office Action has failed to show that *Capper* has separate elements corresponding to both the recited first port and select retention plate elements. In view of the foregoing, *Capper* does not disclose or suggest a method comprising, among other things, “passing a first end of a fluid line through the opening in the floor of the bin prior to or after mounting the select retention plate to the bin, the fluid line having a second end fluid coupled with the first port of the bag,” as recited in claim 43. As such, applicant also submits that claim 43 is independently allowable over the cited art.

3. New Claims

Applicant submits that each of new claims 58-62 are distinguished over the cited art of record. For example, claims 58 and 61, which respectively depend from claims 39 and 47, recites “the select retention plate is separate from and not connected to the bag” (or bag assembly in claim 61) “prior to mounting the select retention plate to the bin.” In contrast and as noted above, fitting 34 of *Capper*, which the Office Action has equated to the “retention plate” recited in claims 39 and 47, is directly coupled to bag 33. As a result, fitting 34 cannot be separate from and not connected to bag 33 prior to mounting fitting 34 to container 20.

As another example, claim 59 recites that the collapsible bag is comprised of “at least one polymeric sheet bounding a compartment”, and the first port is “directly mounted to the body so as to communicate with the compartment.” As noted above, the Office Action has equated

dispensing tube 35 of *Capper* as corresponding to the “port” recited in claim 39. However, dispensing tube 35 is disclosed in *Capper* as being directly coupled only to fitting 34, which the Office action has equated to the “retention plate,” and not to any portion of bag 33. See col. 3, line 11. As a result, *Capper* does not teach or suggest the aforementioned limitations recited in claim 59.

Furthermore, claims 58-62 variously depend from independent claims 39, 47, and 53 and are thus further distinguished over the cited art for at least the same reasons discussed above regarding claims 39, 47, and 53.

No other objections or rejections are set forth in the Office Action.

D. Allowable Subject Matter

Page 3 of the Office Action objects to claims 41, 42, 45, 48, 49, 51, 56, and 57 as being dependent upon a rejected base claim, but states that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the discussion set forth herein, Applicant declines to rewrite claims 42, 45, 48, 51, 56, and 57 in independent form at this time. Because the claims from which claims 42, 45, 48, 51, 56, and 57 depend are distinguishable over the cited art for at least the reasons as set forth above, Applicant submits that claims 42, 45, 48, 51, 56, and 57 are in condition for allowance.

Regarding claims 41 and 49, Applicant has herein rewritten claims 41 and 49 to be independent claims incorporating all of the limitations of the base claim and any intervening claims. In connection with the foregoing, Applicant respectfully notes that an objection, by definition, concerns only the form of the claim(s) (as distinguished from the substance of the claim) with respect to which the objection has been posed. See MPEP §§ 706.01, 608.01(n)

(emphasis added). Thus, simply rewriting a dependent claim in the manner suggested by the Examiner constitutes only a change to the format of the claim and, without more, has no effect with regard to the substance of the rewritten claim.

Because Applicant has made no change to claims 41 and 49, other than to rewrite the claims in independent form to include all of the limitations of the base claim and any intervening claims, Applicant respectfully submits that no change has been made herein to the substance of the claims and, further, that the claims, as rewritten herein, are now in condition for allowance.

E. Conclusion

Applicant notes that this response does not discuss every reason why the claims of the present application are distinguished over the cited art. Most notably, applicant submits that many if not all of the dependent claims are independently distinguishable over the cited art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited art.

In view of the foregoing, applicant respectfully requests the Examiner's reconsideration and allowance of claims 39-62 as amended and presented herein.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 2nd day of March, 2007.

Respectfully submitted,

/Scott A. Woodbury/ Reg. #55743
SCOTT A. WOODBURY

Registration 55,743
DANA L. TANGREN
Registration No. 37,246
Attorneys for Applicant
Customer No. 022913
Telephone No. 801.533.9800

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